

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI,  
WESTERN DIVISION

PATRICIA PEYTON

PLAINTIFF

VERSUS

CIVIL ACTION NO.: 5:09cv136-DCB-JMR

CITY OF YAZOO CITY,  
MISSISSIPPI, et al.

DEFENDANTS

ORDER GRANTING WITHDRAWAL OF MOTION FOR ENTRY OF DEFAULT

This matter comes before the Court on the plaintiff's Motion to Withdraw Motion for Entry of Default Judgment [docket entry no. 19] and plaintiff's Motion for Default Judgment [docket entry no. 15]. Having carefully considered the Motion, the defendant's Response thereto, applicable statutory and case law, and being otherwise fully advised in the premises, the Court finds and orders as follows:

On August 21, 2009, Patricia Peyton ("plaintiff") commenced this suit against Yazoo City, Mississippi, Linda Caston, Harrell Granberry, Jack Varner, McArthur Straughter, James Magee, Hattie Williams, Mickey O'Reilly, and Shirley Knight (collectively "defendants"). Counsel for the defendants filed an answer for all defendants, except Harrell Granberry, on October 2, 2009. Defense counsel alleged that the service of process upon Mr. Granberry in Texas was not proper. Subsequently, the plaintiff filed a Motion for Default Judgment against Mr. Granberry on October 20, 2009, because Mr. Granberry had failed to file an answer to the complaint.

Thereafter, counsel for the defendants were persuaded that

service upon Mr. Granberry did comply with the Federal Rules of Civil Procedure. After conferring with defense counsel on this matter, the plaintiff and her counsel decided not to oppose the filing of an amended answer by the defendants, which included Mr. Granberry. On October 21, 2009, the defendants filed an Amended Answer [docket entry no. 18]. As a result, the plaintiff filed this Motion to Withdraw her previous Motion for Default Judgment against Mr. Granberry. Accordingly,

IT HEREBY IS ORDERED that the plaintiff's Motion to Withdraw Motion for Entry of Default Judgment [docket entry no. 19] is GRANTED.

IT IS FURTHER ORDERED that the plaintiff's Motion for Default Judgment [docket entry no. 15] is DENIED.

SO ORDERED AND ADJUDGED, this the 22nd day of October 2009.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE